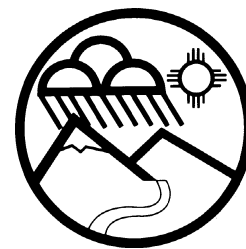


TANK NOTES

STATE OF
NEW MEXICO
ENVIRONMENT
DEPARTMENT



... A Newsletter from
the Underground
Storage Tank Bureau

PUBLISHED BY THE NEW MEXICO ENVIRONMENT DEPARTMENT

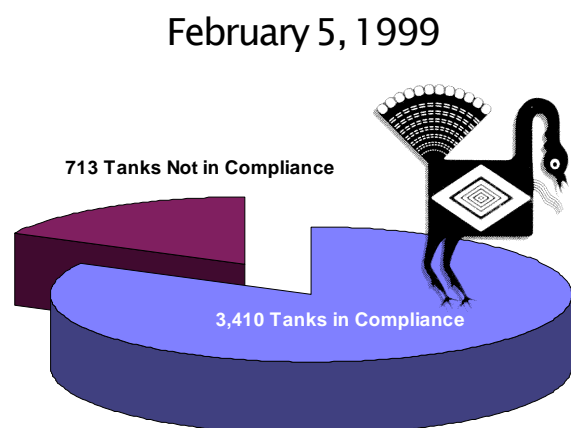
VOL. 11, NO. 1

WINTER 1999

Nearly All Facilities in Compliance at Deadline

Enforcement continues beyond December deadline

*by Thomas Skibitski, Manager,
Prevention and Inspection Program*



83 Percent of Tank Systems Now in Compliance

Based on February 5, 1999 information, there are 4,123 active, regulated, underground storage tanks at 1,444 facilities in New Mexico.

Approximately 83%, or 3,410 tanks at 1,162 facilities, are in compliance with the 1998 standards.

Approximately 17%, or 713 tanks at 282 facilities, are not in compliance with the 1998 standards.

As they come into compliance, the department is issuing green certificates of registration to those facilities that had previously been issued red certificates because of the presence of substandard tank systems.

The December 22, 1998 deadline for compliance with underground storage tank upgrade requirements has passed. There was a brief flurry of interest by the media and great cooperation from the regulated community. As of February 5, 1999, over 83 percent of tanks in New Mexico were in compliance. The remaining 17 percent are in temporary closure or are in the process of upgrading or replacement.

The department applauds those owners and operators, as well as their contractors, who have worked so hard to meet the compliance deadline. At this time, fewer than a half dozen facilities are facing enforcement action.

Besides doing the right thing, most operators recognize the significance of maintaining access to the Corrective Action Fund. Through *Tank Notes*, other individual mailings to operators, and statements in the media, the Underground Storage Tank Bureau has worked hard to get the word out that not being in compliance either through upgrading or temporary closure would be a factor in determining access to the fund.

The bureau is pursuing compliance orders against the few facilities that are still operating out of compliance. The orders require immediate temporary closure of substandard tank systems and may impose per-day financial penalties. These administrative orders will remain in effect until compliance is achieved through upgrading, removing, or permanently closing the UST system.

The bureau may pursue court action for injunctive relief to achieve immediate temporary closure of substandard tank systems for failure to comply with the standards.

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TANK NOTES

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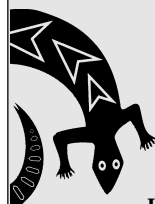
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This newsletter is for the UST owner/operator population and is provided as a general information guide only. It is not intended to replace, interpret or modify manufacturers' protocols, or the rules, regulations or requirements of local, state or federal government, nor is it intended as legal or official advice. The opinions expressed in articles written by NMED staff and others are those of the authors and do not necessarily reflect those of NMED.

We welcome your comments and suggestions. Send address changes and correspondence to: New Mexico Environment Department, Underground Storage Tank Bureau, Harold Runnels Building, 1190 St. Francis Drive, P.O. Box 26110, Santa Fe, New Mexico 87502.



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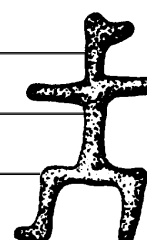
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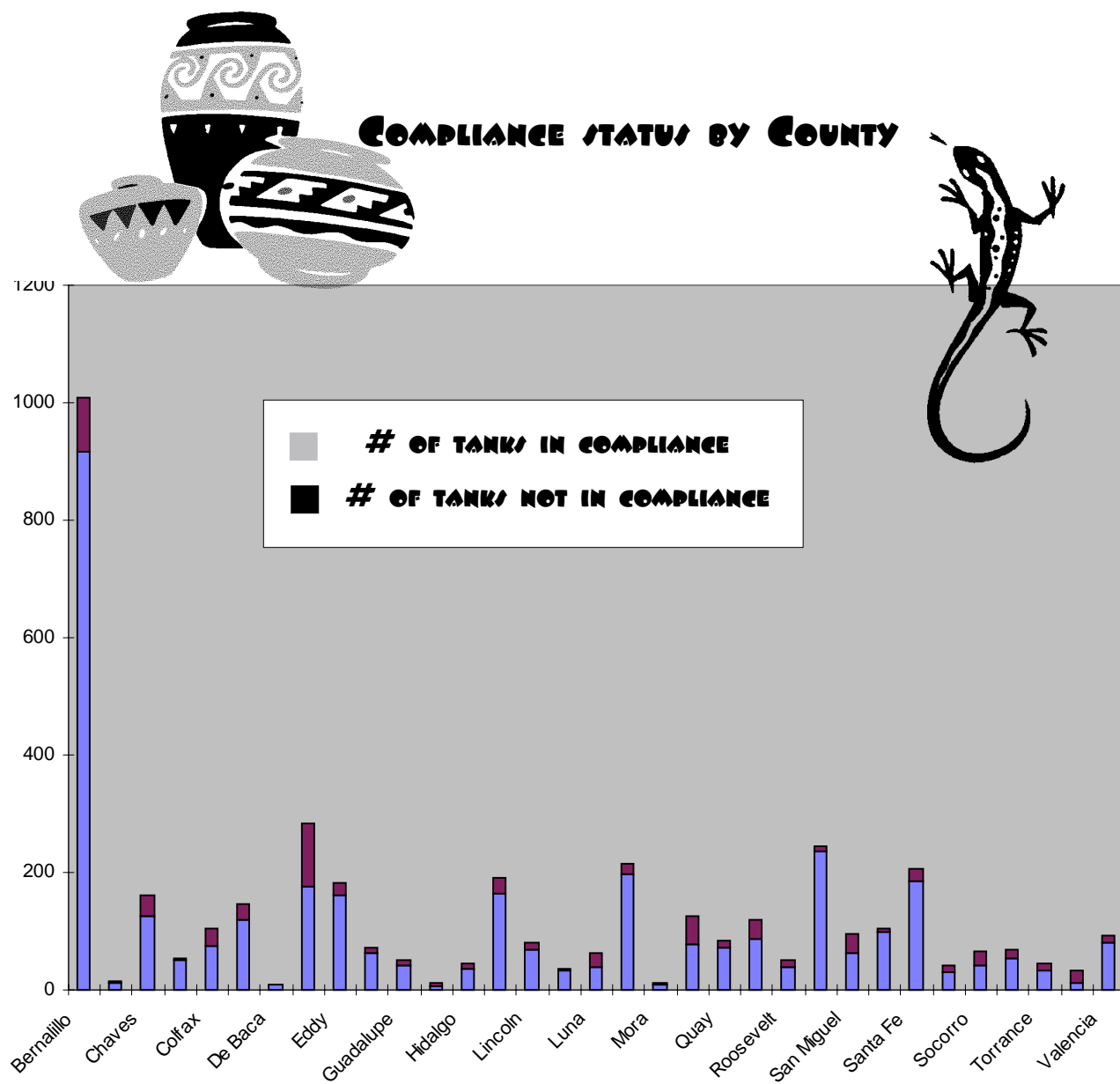
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The New Mexico Underground Storage Tank Regulations (20 NMAC 5.8) provide for temporary closure of UST systems for a period of up to 12 months, extending only to December 22, 1999. Temporary closure status can be extended beyond that date only if the operator conducts a site assessment in accordance with Section 5.8.802 before applying for an extension.

Owners and operators should keep in mind that specific actions must be taken to ensure tank systems remain in proper temporary closure. Those actions are outlined in 20 NMAC 5.8.


There have been rumors that extensions to the upgrade deadline have been granted in some cases. This is not true. Extensions or exceptions have not and cannot be granted to any regulated tank facility to allow operation of a substandard system. The rules apply to all tank operators whether they are small or large, private or municipal, emergency or commercial.

As always, the bureau appreciates the cooperation of the regulated community, without whose efforts New Mexico's compliance goals would not be achievable.



Department Reactivates State-lead Sites

By Jerry Schoeppner, Acting Manager, Remedial Action Program

 In 1990, the New Mexico legislature created the Ground Water Protection Act (GWPA). The goal of the Act was to create a fund to pay for corrective action at sites with leaking underground storage tanks (LUSTs), to create a committee to oversee use of the Corrective Action Fund, and to create a means for the Environment Department to administer the fund. Since that time, the strategy of the department with respect to management of LUST sites has evolved.

From 1990 to 1993, all publicly-funded corrective action at LUST sites was accomplished through contracts between the department and consulting firms, called the "State-lead track." In 1992, GWPA was amended to enable the department to reimburse UST owners and operators, sometimes called "responsible parties" or "RPs," for most of the costs of corrective action. With the addition of this mechanism, the "RP-lead" track, the department was able to fund corrective action without the burden of administering the additional contracts. The bureau set up a claims auditing section to process RP-lead payments.

Subsequent to 1993, the department has used both the RP-lead and State-lead tracks to investigate and remediate LUST sites. In the spring of 1996, work was stopped on most State-lead sites due to a shortage of funds. Later that year, income to the fund was increased, and since then, additional checks and balances have been implemented to control costs, enabling work at State-lead sites to resume.

Presently, the bureau is completing the competitive bid process required by the state procurement code to put contracts with qualified firms in place so that the necessary corrective action can be taken at State-lead sites.

The department prefers to manage LUST sites using the RP-lead track. When the department decides to take a site State-lead, it must do so in order of the site's position on the LUST Ranking priority list. Additional criteria the department uses to designate a site as State-lead are if the owner or operator is unknown, unwilling, or financially unable to pursue corrective action.

If the state completes corrective action at a site with no known RP and an RP is later found, costs may be recovered from this RP. In order for work to proceed at sites with unwilling RPs, the state may sue for access and take the site state-lead, or may initiate legal action to force an unwilling RP to take the required corrective action. If the state takes corrective action at a site with an unwilling RP, the state may seek to recover the cost of corrective action from the RP. At sites where the RP is financially unable to complete corrective action, a settlement agreement may be negotiated.

There are currently 85 State-lead sites throughout New Mexico. When the competitive bidding process is completed and contracts with qualified firms are re-instated, corrective action at the majority of these sites will resume. The department will continue, whenever possible, to manage LUST sites using the RP-track but, when necessary, will continue to use the State-lead track with settlement agreements and cost recovery, as appropriate to protect public health, safety and welfare, and the environment.



TUNE INTO THE WEB SITE

www.nmenv.state.nm.us/ust/ustbtop.html

**FOR THE VERY LATEST IN REPORTS, FORMS,
FAQs, REGULATIONS, DATES, NEWS,
GUIDELINES, AND TANK NOTES**

Certified Scientists Coming Up for Renewal

by Annette Ortega, Clerk Specialist, Financial Management Program



The New Mexico Environment Department's Underground Storage Tank Bureau started the certified scientist program in January

1996. Many individuals became certified at that time. Under the regulations (20 NMAC 5.16), certification is good for three years, which means that those first certifications were up for renewal in January of this year. To qualify for renewal, a certified scientist must:

1. Submit a renewal application prior to the expiration of the current certification. Renewal applications may be obtained by contacting the UST Bureau in Santa Fe or Albuquerque;
2. Demonstrate substantial involvement in the investigation or reclamation of vadose and saturated zone contamination at a minimum of three acceptable sites during the previous three-year certification period; and
3. Demonstrate that the 30-hour continuing education requirements have been satisfied. CEHs refer to actual time spent in continuing education activities, rather than credit hours assigned to a course. The applicant should submit proof of attendance with the renewal application. CEHs must be in the following categories:

- Environmental contamination assessment or remediation at an UST site or other types of relevant sites;
- Handling, treatment or recycling of contaminated media;
- Sampling techniques, accepted protocol, and quality assurance/quality control;
- Hydrogeology;
- Risk assessment applicable to corrective action for environmental contamination; or
- Any other subject that has application in the field of assessment and remediation of UST site contamination.

In lieu of meeting the experience and continuing education requirements, a certified scientist may elect to retake the certified scientist examination at a cost of \$100. This is the only option if the scientist misses the deadline. A passing score must be obtained within three months of the current certification expiration date in order for certification to continue uninterrupted.

For more information regarding the certified scientist program, please contact Annette Ortega at (505) 827-2882 or Darlene Roybal at (505) 827-2931.

What's New at the UST Bureau Website

by Jenny Smith, Bureau Webmaster

- **Draft Revised New Mexico UST Regulations**
<http://www.nmenv.state.nm.us/ust/draftreg.html>

- **New Reports**
Facilities Meeting 1998 Upgrade Requirements, by County (February 5, 1999)
<http://www.nmenv.state.nm.us/ust/images/ytk.doc>

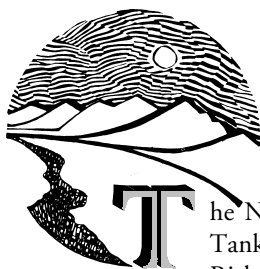
- **New and Revised Forms**
Document/File Request
CAF Compliance Determination
CAF State Lead Invoice Submittal
CAF Claim Instructions and Forms, including Cost Detail Form
Guide to the Standardized LUST Corrective Action Report Formats
<http://www.nmenv.state.nm.us/ust/forms.html>

- **Tank Notes Back Issues** -Postscript format
Winter 95-96
Spring 96
Fall 96
Winter 96-97
Spring-Summer 97
Fall 97
Winter 97-98
Spring 1998
<http://www.nmenv.state.nm.us/ust/tanknote.html>



- **UST Committee**
May-December 1998 Meeting Minutes
<http://www.nmenv.state.nm.us/ust/ustcmin.html>
- **Yellow Pages**
UST Field Office and Key Staff Listings
<http://www.nmenv.state.nm.us/ust/ustbtop.html>

What RBCA is NOT



by Lisa Schall, Geologist,
Remedial Action Program

The New Mexico Underground Storage Tank Bureau is currently developing a Risk-Based Corrective Action (RBCA) or risk-based decision-making program to address petroleum releases from underground storage tank systems. The program is being developed within the existing statutory framework of the state Water Quality Act, the Hazardous Waste Act and the Ground Water Protection Act.

What comes to mind when one hears the term "RBCA"? Being different from conventional corrective action strategies, RBCA has been negatively associated with complicated decision-making, doing nothing, and a desire to save money. These associations, however, are inaccurate and reveal more about what RBCA is not than what it is.

RBCA is NOT an attempt to generate confusion by complicating the decision-making process. While it may appear complex on the surface, this strategy can be reduced to three simple steps: site characterization, risk assessment, and risk management. Essential to any RBCA program, these steps will be implemented within a tiered

framework. Simple sites will require limited data collection and risk evaluations, while complex site characterizations and risk assessments will be reserved for sites requiring greater site-specific analysis in managing their risks. The same level of protection is provided for each tier.

RBCA is NOT about doing *nothing*. It is about doing what is *necessary* to best manage actual risks to public health, safety and welfare, and the environment. Risk management options may include the operation of remediation systems, source removals, and monitored natural attenuation, and also engineering or institutional controls, or a combination of the above. Risk management is about doing *something* and is an essential step in any RBCA program.

RBCA is NOT about saving money. It is about the optimal use of resources. Historically, state agencies have required active remediation, even though it could not always meet statewide standards applying to all sites or produce a reduction of risk. RBCA, on the other hand, allows for the calculation of site-specific target levels in soil, matches the level of effort to the risk, and allows more flexibility in managing contaminated sites. The RBCA strategy allows more resources to be spent on sites which pose more of the risk.

In short, RBCA is about common sense.

Reg Revisions in the Home Stretch

by Anna Richards, Manager, Regulations, Data and Information Section



Phase 2 of a comprehensive revision of the UST regulations is approaching completion. Thirteen parties submitted comments on the draft revisions during an informal period of public comment. Based on these comments, the department has made modifications to the draft. This revised draft is available to the public on the Web site or by contacting one of the bureau offices.

The department anticipates a summer 1999 public hearing before the Environmental Improvement Board on 20 NMAC 5 parts 1, 2, 3, 6, 7, 8, 9, 10, 12, 13, 14, 15, and 16. The board will be considering substantial changes to the corrective action regulations that propose a tiered, risk-based approach to management of petroleum releases. (See the article above for more on RBCA.)

The department's Corrective Action Fund Administration regulations (20 NMAC 5.17) were released for an informal period of public comment in mid-December 1998. Very few comments were received. These regulations cover competitive bidding for corrective action contractors, compliance determinations, eligible costs, and application for payment by tank owners from the fund.

They will be considered in a public hearing before the Secretary later this spring. Both the board and the department hearings will be accompanied by a formal period for public comment and for notification of the board or the Secretary of intent to present testimony at either hearing.

The department appreciates the many constructive comments received from the public, acting independently and as members of working groups, during the lengthy revision process. Check the Web site for draft changes, as well as the dates, times and locations of the two public hearings. Contact Anna Richards by e-mail or phone (505) 827-0158 for further information.

LEAK O'THE WEEK

Report releases to the following staff during working hours. For emergencies during evenings and weekends, call the NMED emergency number, 827-9329.

Mar 01 - Mar 05	Brian Salem	827-2926
Mar 08 - Mar 12	Jane Cramer	841-9477
Mar 15 - Mar 19	Lisa Schall	827-2916
Mar 22 - Mar 26	David Nye	841-9478
Mar 29 - Apr 02	Norman Pricer	841-9189
Apr 05 - Apr 09	Steve Jetter	841-9461
Apr 12 - Apr 16	Tom Leck	841-9479
Apr 19 - Apr 23	Lorena Goerger	827-0110
Apr 26 - Apr 30	Brian Salem	827-2926
May 03 - May 07	Jane Cramer	841-9477
May 10 - May 14	Lisa Schall	827-2916
May 17 - May 21	David Nye	841-9478
May 24 - May 28	Norman Pricer	841-9189
May 31 - Jun 04	Steve Jetter	841-9461
Jun 07 - Jun 11	Tom Leck	841-9479
Jun 14 - Jun 18	Lorena Goerger	827-0110
Jun 21 - Jun 25	Brian Salem	827-2926
Jun 28 - July 02	Jane Cramer	841-9477
July 05 - July 09	Lisa Schall	827-2916
July 12 - July 16	David Nye	841-9478
July 19 - July 23	Norman Pricer	841-9189
July 26 - July 30	Steve Jetter	841-9461



In case you missed the November UST conference, on Friday, April 9, Anna Richards will speak on the proposed risk based corrective action approach for leaking USTs. It's happening at the Sheraton Old Town in Albuquerque. Secretary Maggiore will be the keynote speaker on Thursday morning.

Contact Clara Cates at 505-924-3669 for information.

Comings and Goings

The Environment Department and the Underground Storage Tank Bureau have undergone several administrative changes since the last edition of *Tank Notes*.

UST Bureau Chief Jim Najima has been appointed Environmental Protection Division Director by Secretary Peter Maggiore. Najima originally joined the bureau as manager of the Financial Management Program and was appointed bureau chief in October 1998. The former division director and bureau chief, J. David Duran, retired at the end of 1998. Also retiring in December were administrator Patsy Sandoval and secretary Wanona Maestas. Other departures include Christina Romero who was the administrative secretary for the bureau. District One secretary Josephine Romero resigned her position in the District One office, as did financial specialist Rita Duran.

Stephen G. Reuter was named acting bureau chief. Reuter, who has been the manager of the Remedial Action Program, has more than 23 years of experience as a professional geologist, with nine of those years focused on environmental issues. In the interim, Jerry Schoeppner will serve as acting program manager of the Remedial Action Program. Schoeppner is a team leader in the Remedial Action Program and has been with the bureau for six years.

In March, Margaret Trujillo joined the bureau as manager of the Financial Management Program. Trujillo comes to us from the Administrative Services Division of the department. Her expertise will help the department continue processing requests for payment and payment of invoices for state contracts from the Corrective Action Fund, as well as collect annual tank registration fees.

Cathy Atencio has replaced Patsy Sandoval as management analyst in charge of tracking the bureau's budget. Steven Sanchez also has joined the bureau as a financial specialist responsible for auditing applications for payments from the Corrective Action Fund.

The bureau wishes the departing employees well and welcomes the new staff and leadership.

Remember?

*This was our inaugural backpage
upgrade deadline reminder way
back in summer of 1995.*

*The deadline
happened*

*The first thing
she should
do is file for
temporary
closure.*

*Then
she
must
upgrade, or
file for
permanent closure.*



*I can't believe
I forgot to
upgrade*



1998 may seem
like a long way
away, especially
these days, but it's
sooner than you
think. The Bureau
urges you to get
started before the
last minute.

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